

REMARKS/ARGUMENTS

Favorable consideration and allowance of the instant application is respectfully requested in view of the following remarks.

Claims 11-22 are pending in this application.

The Examiner's rejections, as they pertain to the patentability of the claims, are respectfully traversed.

Claims 11-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Prat et al. (US 5,718,891) in view of Ponsati Obiols et al. (US 5,880,299) and Inman et al. (US 5,935,561). This rejection is respectfully traversed for the following reasons.

Briefly stated, the present invention is directed to a process for treating skin and hair involving contacting these substrates with a composition containing an esterquat, an oil component, a fatty alcohol and a fatty alcohol polyglycol ether.

Both the Prat and Ponsati Obiols references admittedly fail to contain any teaching or suggestion relating to the use of the claimed oil component, in combination with the other claimed components, for treating hair and/or skin. In an attempt to overcome this admitted lack of teaching or suggestion, the Examiner relies on the teaching of Inman regarding the use of certain organic oils, in combination with cationic conditioning polymers, for treating hair. However, the Examiner has failed to provide any evidence as to why one of ordinary skill in the art would: (1) wish to seek out and then employ the oil component of Inman when both Prat and Ponsati Obiols clearly teach that very effective hair care properties can be obtained using their formulations; and (2) believe that Inman's organic oils would be effective when combined with the formulations disclosed by the Prat and Ponsati Obiols references.

It is well settled that an Examiner cannot establish obviousness through references describing various aspects of an Applicant's invention unless the Examiner also provides evidence of a motivating force to compel a person skilled in the art to do what Applicant has done. See, Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). Clearly, none of the references relied upon by the Examiner teach or suggest the combination of **ALL** of Applicant's claimed components.

Appl. No.: 09/831,431
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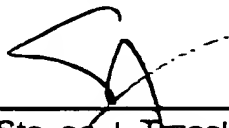
Moreover, it should also be noted that based on the Inman teaching, it is only when very **select** combinations of **certain** organic conditioning oils **and** synthetic esters are used in combination with cationic polymers, that an improvement in feel is realized. However, when these select components are not used, the result is slimy, greasy-feeling hair. See, col. 1, lines 53-58 of Inman. Consequently, one of ordinary skill in the art, after having read the Prat and Ponsati Obiols references, whose formulations clearly do not contain Inman's highly specific components, and then the above-cited disclosure in Inman, would most likely conclude that Inman's oils would be **deleterious**, i.e, produce a slimy effect, if combined with the components of Prat and Ponsati Obiols and, therefore, choose not to employ said oils.

Accordingly, for all of the above-stated reasons, reconsideration and withdrawal of this rejection is respectfully requested.

It is believed that the foregoing reply is completely responsive under 37 CFR 1.111 and that all grounds for rejection are completely avoided and/or overcome. A Notice of Allowance is therefore earnestly requested.

The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,



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- Response (3 pages)

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